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TOM LYTHGOE, CHAIR

CHUCK NOTBOHM

KEN WEBER

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
November 22, 2005**

Present: Commissioners Lythgoe, Notbohm and Weber; Mike Ruppert, CEO - Boyd Andrew; Harold Stepper, County Planner; Marga Lincoln, *Helena Independent Record*; Kellie Doherty, Personnel Officer; Matt Johnson, County Attorney; Lonnie Whitakker, GIS/Mapping Tech; Jan Anderson, *Boulder Monitor/Jefferson County Courier*; Ed Tinker, Marilyn McCauley, Rick Schlenker, Dean and Betty Ellis, James Pahre, Bob Lombardi, Jr., Danica Younker, Michelle Popp

BID OPENING - FAIRGROUNDS MULTI-PURPOSE BUILDING

Marilyn McCauley stated that this bid is for phase 1 of the multi-purpose building, and entails putting in restrooms. The rest of the building will remain open. The bids were opened and read as follows:

Contractor	Base Bid	Add Alt No 1	Total Bid
Diamond Construction	\$83,400	\$6,000	\$89,400
Wadsworth Builders, Inc.	\$77,900	\$6,744	\$84,644

Ed Tinker stated that he is doing the electrical, which is supposedly separate from the building bid.

Rick Schlenker, the architect, stated that the project was envisioned in two phases, using the existing building. They plan to use part of the building for restrooms, prep kitchen and a meeting room. The Fair Board decided to pare down the project somewhat and just bid out the restrooms. This will be a 1000-square-foot area, and have a men's and women's restroom, a janitorial room and an electrical room. They tried to get the numbers down to the budgeted amount, but it was difficult to get people to bid. Commissioner Notbohm asked for clarification that there will be 1000-square-feet on concrete, using the existing exterior walls. Rick stated that this is correct. He showed the Commissioners the plans. He stated that he had hoped that the plumbing would come in lower. He knew the Fair Board had budgetary problems. They were hoping to come within the budget, but that didn't happen. You add in electrical, and it is a \$100,000 project.

Commissioner Lythgoe stated that he thinks they will have to go back to the drawing board and talk to the Fair Board, then come back with a recommendation for the Commission.

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Commissioner Weber moved to table the discussion on the phase 1 improvement to the multi-purpose building and let the Fair Board decide where to go from here. Commissioner Notbohm seconded. The motion carried.

CALENDAR REVIEW

11/23 CTAC - Whitehall - 8:00

11/28 Meeting with governor - Helena - 10:00

COMMISSION REPORTS

HEALTH BOARD

Commissioner Lythgoe reported that the Health Board met on Tuesday night. Five of the seven applicants for the nurse supervisor position had previously been interviewed, and all were qualified. The Health Board authorized the chair to offer the position to one of the candidates, who accepted the position. Nicki, the part-time nurse, is also back from maternity leave. The Health Department also has their flu vaccine in.

IMPACT FEES

Commissioner Lythgoe reported that he and Harold Stepper attended a meeting regarding impact fees. He stated that they received very good information.

SOLID WASTE

Commissioner Weber reported on the Solid Waste board meeting held on Thursday. The meeting was well attended. The major topic of discussion was salvage of the metal piles. DEQ does not allow this, unless it is part of the permitting process. The Solid Waste board is going to pursue this further.

ROAD CLOSURES

Commissioner Notbohm stated that he is putting together a letter to the Forest Service and BLM regarding road issues, that goes along with what Commissioner Weber is working on regarding the governor's request. He will revise it and put it through the mail.

SUBDIVISION REVIEW

FINAL PLAT APPROVAL - GRANDE VISTA SOUTH SUBDIVISION

Harold Stepper, County Planner, presented his staff report and recommended that final plat approval be granted. Commissioner Weber moved to grant final plat approval. Commissioner Lythgoe seconded. The motion carried.

FINAL PLAT APPROVAL - WIEFERICH MINOR SUBDIVISION

Harold presented his staff report and recommended that final plat approval be granted. Commissioner Lythgoe moved to grant final plat approval. Commissioner Weber seconded. The motion carried.

FINAL PLAT APPROVAL - LOMBARDI MINOR SUBDIVISION

Harold Stepper, County Planner, presented his staff report and recommended that final plat approval be granted. Commissioner Weber moved to grant final plat approval. Commissioner Notbohm seconded. The motion carried.

FINAL PLAT APPROVAL - SUCHY MINOR SUBDIVISION

Harold Stepper, County Planner, presented his staff report and recommended that final plat approval be granted. He noted that the mylars have not yet been received, but he hopes to have them later in the afternoon. Commissioner Weber moved to grant final plat approval. Commissioner Notbohm seconded. The motion carried.

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

RESOLUTION 35-2005 SUPPORT FOR RESIDENTIAL METHAMPHETAMINE TREATMENT PROGRAM

Commissioner Lythgoe stated that the Commission is not going to adopt this resolution today, and that it is on two more agendas, as a resolution of intent and a resolution to adopt. Commissioner Weber read the resolution.

Mike Ruppert, CEO of Boyd Andrew, stated that the Department of Corrections has issued a request for proposals. Boyd Andrew's proposal will be for a 60-bed female-only minimum security facility. The RFP requires that the plan has Commission support. This will be five million dollar building project with all new construction, south and east of the AYA facilities. As of today, they are looking at 33 FTEs, hopefully two-thirds of which will be Boulder residents. Mike stated that he feels Boyd Andrew has a fairly good shot at getting the bid. Commissioner Weber asked if the facility will be age specific. Mike stated that it will be for adults only.

Commissioner Lythgoe stated that his only question is if the language of this resolution is specific enough, given that it needs to be part of the entire package to submit. Mike stated that the RFP states that the resolution must support the program, and this resolution does that.

Commissioner Notbohm asked about the proposed location, in relation to Riverside. Mike stated that it will be south and east, and there will be a visual barrier between the two. Commissioner Notbohm asked about funding. Mike stated that bonds will be issued. Commissioner Notbohm asked if they will be getting any grants. Mike stated that they have not pursued grants at this time.

Matt stated that the County Attorney's office supports this idea and proposal. One thing he sees in court is that there are no options for treatment for people addicted to meth, who require different and much more intense treatment. This program is a benefit, certainly economically, and he sees no significant impact on his office or the community. This will be a secure facility where an escape is a felony, which will certainly be a deterrent.

Harold stated that with the 351 transfer they are pursuing, they need to make certain that it doesn't leave an island of land between what the County owns and the transfer property. He stated that he will research with GIS.

OPEN AND AWARD IMPACT FEE STUDY BID

Harold stated that he has one bid for the impact fee study. The bid is from TischlerBise, Fiscal, Economic and Planning Consultants, in association with White and Smith, land use lawyers and Robert Peccia and Associates, civil engineers. Their bid gave an estimated range of between \$63,800 and \$109,800.

Harold stated that he attended an impact fee meeting the previous week, and one of the presenters was from TischlerBise. After attending that meeting, he has a different idea of impact fees. It will require funds from the County up front. For instance, if there is a county road that is not to standards, a new subdivision can't be required to be fully responsible for bringing the road up to standards. The presenter said that there are three options, do nothing, do a feasibility study, or go full bore. He stated that most counties would go with option one or two. Counties are different from cities in regards to the services they provide, and it is not a fiscally sound decision for counties. Harold stated that after reviewing, he is not sure the county wants to pursue impact fees, but should continue with exaction fees, as with the Milligan Canyon subdivision. It was a very worthwhile class, with very knowledgeable presenters.

Commissioner Weber asked if we need to be concerned with the potential loss of funds, and if we need to worry about it if we don't use impact fees, and cited the City of Bozeman as an example. Harold stated that the City of Bozeman didn't do the study properly and didn't assess the fees fairly.

Commissioner Lythgoe stated that his impression is the same as Harold's. We are a growing county, but we don't deal with what cities are; we can deal with this through exaction fees.

Commissioner Weber moved not to enter into a contract based on the proposal received regarding an impact fee study. Commissioner Lythgoe seconded. The motion carried.

DISCUSS OWNERSHIP OF UPPER JACKSON CREEK ROAD

Commissioner Lythgoe stated that Lonnie has done a lot of research over the past couple of weeks. As a result of some things that are in the record and some things Jefferson County has participated in over the past several decades, the Commission did decide in 2002 that this is a county road up to the old Armagost place. Per Lonnie's research, Jackson Creek Road turned at Hill Brothers Road and went to Holmes Gulch. The County currently maintains up to where Krpins live, and until a few years ago, went up to the Schmaus property. The County didn't change ownership, but the maintenance level. Lonnie stated that Jackson Creek to Hill Brothers is maintenance level A, to Krpins is level B, and it is level Z to the end of the BLM ground. Commissioner Lythgoe stated that there is also oral evidence that the County did maintain the road at one point through the Schuele property. The County's position, after all the research, is that they stay with the position that this is a county road up to the boundary of the old Armagost place. By virtue of records, historic maintenance and use, his personal feeling is that Mr. Schuele has a prescriptive right, and he hopes that the new owner won't require that Mr. Schuele

go to court to prove this. The family has been using this road for 100 years.

Dean Ellis stated that according to a title search, there is an easement across his property, but it is not a county road. He stated that they haven't seen the paperwork yet, but Ben gave it to the Commission. Commissioner Lythgoe stated that they will have to find the paperwork, but he doesn't think that the Commission is going to change their position. Lonnie stated that the only easement in his research is in regards to Hill Brothers Road. Commissioner Lythgoe stated that it is interesting that the record Mr. Schuele provided had not even part of what has been discussed, but even further up. Dean stated that according to Shane Schmaus' title search, there is no easement on his place. Commissioner Lythgoe stated that regardless, as a result of some historical documents in the Courthouse and use of the road, the Commission did determine in 2002 that it is a county road up to the old Armagost place. Dean stated that he disagrees with this. Commissioner Lythgoe stated that responsible might be a better term.

Matt stated that the road can be owned or the County have responsibility with an easement. The County has a responsibility to keep the road open for public access. Commissioner Lythgoe stated that he is not sure regarding an easement, but in reality, by use, the way the road has been used over the last 100 years - it is a public road through the Schuele property up to Forest Service and BLM lands. Matt stated arguably; this is the only access to those public lands. It would be helpful for the Forest Service and BLM to comment if there is other access to those lands. The County could decide to take this to court for a ruling. The County needs to understand, however, the resources needed and what it will take to prove. Commissioner Lythgoe stated that it is a catch-22. Shane didn't want it to be a county road, but when the new owner locked the gate, he wasn't able to get up there to hunt. It was stated that the Forest Service gated the road in 1944, so there is no access to forest or public lands. Commissioner Notbohm asked if there is any indication that the road from the gate to the Forest Service gate was ever officially abandoned. Lonnie stated that the piece of road they are referring to ran between Little Buffalo Creek to Jackson Creek, not Jackson Creek Road, but Jackson Creek. He showed the Commission a map.

Commissioner Lythgoe stated that the Commission's position at this time is that it is as defined. No decision will be made at this meeting. This will be discussed again at next week's meeting and a decision made at the December 6th meeting.

Commissioner Notbohm asked the Ellis' what their problem is with this issue. Dean stated that he has no problem with access or a prescriptive easement, but he doesn't want a 60-foot easement or to have the road widened. Commissioner Notbohm stated that he can't speak for the other Commissioners or Ben, but he can't see going any further with that road. If they widen it, it will be in the creek, in someone's yard, etc. Commissioner Lythgoe stated that the issue that they need to determine is ownership. The new owner wants to widen the road, and he needs to know who to deal with.

Lonnie stated that part of the problem is that a lot of these roads were built to get materials from point A to point B, with no consideration of terrain, surface, materials, etc. If the County is responsible for the road, they will want to make sure that it will handle anticipated traffic.

DISCUSS AND DECIDE ON CHANGES TO THE PERSONNEL POLICY REGARDING LANGUAGE IN THE SICK LEAVE, VACATION AND HEALTH INSURANCE POLICIES PERTAINING TO SHORT-TERM EMPLOYEES

Kellie Doherty, personnel officer, stated that several weeks ago, there was an issue with sick leave. An employee had been a temp employee for four months, and was then hired permanent. This employee wanted to use some sick leave immediately after this. Traditionally, this has not been allowed, but the Commission wanted to change the policy to allow for this when a temp employee transitions into a permanent employee. She has written additional language for the sick-leave policy, as well as the vacation policy.

Commissioner Weber moved to add the new language the personnel officer has presented regarding sick and vacation leave for temp or seasonal employees that transition to a permanent employee. Commissioner Lythgoe seconded. Discussion followed. Commissioner Notbohm asked what is allowed now for temp or seasonal. Kellie stated that sick leave is pro-rated by hours worked. The motion carried.

Kellie stated the other issue that has recently come up is in regards to health insurance benefits. Temporary and short-term employees have no insurance benefits. Teamsters did an audit several years ago and said that the language in our policy was too vague. The County had to pay out several thousand dollars in insurance benefits. Kellie provided new, proposed language for the personnel policy.

Commissioner Weber moved to replace the language in the personnel policy to the wording the personnel officer brought forward regarding health insurance benefits for employees. Commissioner Notbohm seconded. The motion carried.

DISCUSS AND DECIDE ON GIVING COUNTY EMPLOYEES A PAID DAY OFF ON FRIDAY, NOVEMBER 25TH

Commissioner Lythgoe stated that days off have been given in the past. Normally the Commission will look at the calendar and, if possible, make a four-day weekend around Christmas. This has also been done at Thanksgiving, in the past. In the future, Commissioner Lythgoe stated that will need to be done when holidays for the entire year are set. He stated that he checked with Bonnie, and this has been done numerous times in the past.

Commissioner Lythgoe moved to give County employees a paid day off on Friday, November 25, 2005. Commissioner Weber seconded. Discussion followed.

Matt stated that statute provides leeway to provide a paid day off, with the consent by the elected county officials. Speaking for his office, it would be nice to have a day off, but they do have a responsibility to the taxpayers. He noted that closing his office would not affect the public as much as the Treasurer or Clerk and Recorder, however. He stated that he feels that he has a responsibility to have his office open, with no notice to the public. He noted also that it should be designated as a paid day off versus a holiday, for bookkeeping purposes.

Commissioner Notbohm stated that he has discussed this with Carla. The problem that he has with this is the short notice. He would be more in favor of this if they had dealt with it in October. Under the circumstances, he feels that it would be better to give an extra day around Christmas. He feels that this is a fairness issue, with them not being able to give adequate notice. Matt stated that one option is to give shortened hours. Commissioner Weber stated that the Sheriff's office has to work regardless, and will get extra compensation.

Commissioner Lythgoe stated that he has spoken with the Clerk and Recorder, Treasurer and Clerk of Court, and they have no problems with closing for the day. Matt stated that one of his major concerns is that if he decides to have his office open while the rest are closed, he will have to regulate who is in the building.

Glenna Waltee, Library Board Chair, asked if the Commission is proposing to pay time-and-a-half. Commissioner Lythgoe stated that it would be straight time. Glenna stated that she has no problem with this. Commissioner Lythgoe stated that the only problem he has with this is that he didn't bring this forward sooner. Commissioner Notbohm stated that they do have to take into consideration public perception. They took a lot of heat with the bonus last year, which he was in support of. They also need to consider the amount of a day's payroll.

The motion carried, with Commissioner Lythgoe and Weber voting aye, and Commissioner Notbohm voting nay.

MEETING ADJOURNED

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

TOMAS E. LYTHGOE, CHAIR

CHUCK NOTBOHM, COMMISSIONER

KEN WEBER, COMMISSIONER